

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN MELENDEZ, ET AL.,

Plaintiffs,

v.

RALPH DIAZ, ET AL.,

Defendants.

Case No. 1:20-cv-01393-ADA-CDB

ORDER ON STIPULATION AMENDING
SCHEDULING ORDER **AS MODIFIED**

(ECF No. 35)

Plaintiffs initiated this action by filing a complaint on September 28, 2020. (ECF No. 1). On July 28, 2022, the Court convened the parties for a scheduling conference and thereafter issued a Scheduling Order. (ECF No. 31).

On January 4, 2022, the parties filed a stipulation seeking a 90-day extension of the discovery, motion and trial schedule. (ECF No. 35). The stipulation seeking an extension is the first request by the parties to amend the scheduling order and is timely filed pursuant to Local Rule 144(d). The parties represent in the stipulation that they are in dispute as to whether eight of the twelve plaintiffs exhausted their remedies, and that Defendants anticipate filing a motion for summary judgment based on the lack of exhaustion. (*Id.* at 2). The parties indicate that the extension is appropriate as the Court's ruling on the forthcoming motion for summary judgment would greatly reduce the discovery necessary on this case. (*Id.*)

The parties' representations as to the bases warranting a continuance satisfy the

requirements under Fed. R. Civ. P. 16(b)(4) to show good cause and diligence. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Nevertheless, the Court implores the parties to diligently continue discovery during the pendency of any exhaustion motion given that the claims of four plaintiffs are not expected to be impacted by a ruling on the motion, and as such, there is no apparent reason why those plaintiffs' depositions cannot be taken.

Accordingly, based on the parties' representations in the stipulation and for good cause shown, IT IS HEREBY ORDERED that the following dates and deadlines are continued as reflected below:

Plaintiffs' Responses to Written Discovery Deadline	January 17, 2023
Plaintiff may serve each of the two Defendants the following written discovery: 10 Interrogatories, 10 Requests for Admissions, and 5 Requests for Production	January 17, 2023
Fact Deposition Deadline	May 4, 2023
Expert Disclosure Deadline	May 19, 2023
Supplemental Expert Disclosure Deadline	June 9, 2023
Completion of Expert Discovery Deadline	July 14, 2023
Dispositive/ Exhaustion Motion Deadline	June 16, 2023
Pre-trial Conference	December 4, 2023, 1:30 p.m., Fresno Crt. 8
Trial	February 6, 2024, 8:30 a.m., Fresno Crt. 8

Additionally, a mid-discovery status conference is scheduled for **April 19, 2023**, at 9:30 a.m. before Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference report no later than **one week before the conference**. Counsel also SHALL lodge the status report via e-mail to CDBorders@caed.uscourts.gov. The joint report SHALL outline the discovery counsel have completed and that which needs to be completed as well as any impediments to completing the discovery within the deadlines set forth in this order. Counsel

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1 SHALL discuss settlement and certify in the joint status report (1) that they have met/conferred
2 regarding settlement, and (2) proposed dates for convening a settlement conference with
3 Magistrate Judge Baker (or an unassigned magistrate in the event the parties later consent to
4 magistrate judge jurisdiction).

5 IT IS SO ORDERED.

6 Dated: **January 12, 2023**


UNITED STATES MAGISTRATE JUDGE